

## Opinion No. 125

**Rural Electric Cooperative  
Corporation—Taxation—Rural  
Improvement District Taxes**

**Held:** The property of rural electrical cooperatives, organized under the laws of Montana, which is used and owned thereby, shall be classified for taxation purposes as follows:

1. All personal property and such property as is specifically mentioned in Subsection B of Class 5 of Section 1999, Revised Codes of Montana, 1935, as amended, including all improvements on land, at the rate of 7%.
2. All land at the rate of 30%.
3. The property of such organization is liable for Rural Improvement District taxes.

July 6, 1948

Mr. E. W. Popham  
County Attorney  
Dawson County  
Glendive, Montana

Dear Mr. Popham:

You have requested my opinion pertaining to the taxation of a certain Rural Electric Cooperative Corporation in your county.

Your inquiry pertains first as to whether all the property of such an organization should be under Class 5 of Section 1999 of the Revised Codes of Montana, 1935, as amended by Chapter 130, Laws of Montana, 1937, Chapter 107, Laws of 1941, and secondly, whether the property of such

an organization is liable for its share of the costs of a Rural Improvement District.

In answer to your first point, I feel that from a study of the history of the classification, it is quite conclusive what is and what is not to be taxed in Class 5.

Section 1999, as amended by Chapter 130, Laws of 1937, in so far as it pertains to your problems, reads as follows:

“Also all poles, lines and other property used and owned by cooperative rural electric associations organized under the laws of Montana, which rural electrification lines are or have been constructed in whole or in part in cooperation with and from funds furnished by and from the rural electrification authority of the United States.

Thus, only poles and lines were specifically mentioned and just what was meant by “and other property” was quite uncertain, so much, in fact, that in 1941 the legislature saw fit to amend the law to read as follows:

“Also all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by cooperative rural electrical associations organized under the laws of Montana.”

As amended, it seems to me there is little doubt of the intent of the legislature. In fact, practically everything with the exception of land itself is specifically enumerated. In interpreting this amendment, I feel that if the legislature had intended to include land it would have said all property, thus I agree with your opinion in respect to the fact land does not come within the scope of this classification, and that lands owned by such an organization should be classified in Class 4. However, I disagree with you as to the improvements.

Section 1996, Revised Codes of Montana, as amended in 1939, specifically states as follows:

“Whenever the terms mentioned in this section are employed in dealing with the subject of taxation, they are employed in the sense hereafter affixed to them. Third: The

term 'improvements' includes all buildings, structures, fixtures, fences, and improvements erected upon or affixed to the land, whether title has been acquired to said land or not."

Thus, the word 'improvements' when used in Subsection (B) of Class 5 is by said Section 1996 given a definite meaning, which must be recognized. *Northern Pacific Railway Co. v. Sanders County*, 66 Mont. 608, 214 Pac. 596. Besides, improvements are one of the essential items listed in said subsection B, the same as poles, lines, etc. Further, the enclosure by building or fence is usually included as a part of a transformer station when referring to the same. Further, it is entirely logical to make this differential in that improvements are assessed separately from the land. See Section 2001, Revised Codes of Montana, 1935, as follows:

"All taxable property must be assessed at its full cash value. Land and the improvements thereon must be separately assessed."

In my opinion, the placing of improvements in Subsection B of said Class 5 is no different than placing tools, machinery, etc., therein, as far as Section 7 or Section 11 of Article XII of the Constitution are concerned. See in this respect, *Mills v. State Board of Equalization*, 97 Mont. 13, 33 Pac. (2d) 563; *Bank of Miles City v. Custer County*, 93 Mont. 291, 19 Pac. (2d) 885. It is to be noted that the definition of a corporation, as set forth in Section 18 of Article XV of the Constitution, is only for the purpose of that specific Article.

In regard to your second point, I agree with you that the property of a rural electrical cooperative is subject to its share of the costs and maintenance of Rural Improvement Districts, as provided by Chapter 136, Laws of 1941.

Therefore, it is my opinion that the property of rural electrical cooperatives, organized under the laws of this state, which is used and owned thereby, shall be classified for taxation purposes as follows:

1. All personal property and such property as is specifically mentioned

in Subsection B of Class 5 of Section 1999, Revised Codes of Montana, 1935, as amended, including all improvements on land, at the rate of 7%.

2. All land at the rate of 30%.

And it is my further opinion that the property of such organization is liable for Rural Improvement District taxes.

Sincerely yours,  
R. V. BOTTOMLY,  
Attorney General